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10/803,190

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07/24/2007

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TRAN, MY CHAU T

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/803,190             | YAMAZAKI ET AL.     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | MY-CHAU T. TRAN        | 2629                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 2-5, 8, 9, 12, 13 and 15-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 6, 7, 10, 11, 14 and 23-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/18/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Application and Claims Status***

1. Applicant's response filed 05/16/2007 are acknowledged and entered.
  2. Claims 1-25 were pending. No claims were amended, added, and/or cancelled.
- Therefore, claims 1-25 are currently pending.

### ***Election/Restrictions***

3. Applicant's election with traverse of Group 1 (Claims 1, 6, 7, 10, 11, 14, and Linking claims 23-25) in the reply filed on 05/16/2007 is acknowledged. Since applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the traversal is not found persuasive. However assuming *arguendo* the traversal is on the ground that in regard to the restriction among groups 1-4 (subcombinations) and group 5-7 (combinations) the combination does not have separate patentability in itself and rather relies upon the features of the subcombination for patentability. This is not found persuasive for the combination as claimed does not require the particulars of the subcombination as claimed because the claimed plural subcombinations are evidence that the combination as claimed does not require the particulars of the subcombination as claimed for patentability, e.g. any subcombination of either Groups 1-4 can be use in any combination of either Groups 5-7. The subcombination has separate utility because the claimed plural combinations are evidence that the subcombination has utility in more than one combination, e.g. a video camera of Group 5 or a laptop computer of Group 6.

The requirement is still deemed proper and is therefore made FINAL.

4. Claims 2-5, 8, 9, 12, 13, and 15-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to *nonelected inventions*, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 05/16/2007. Therefore, claims 1, 6, 7, 10, 11, 14, and 23-25 are under consideration in this Office Action.

#### ***Priority***

5. Receipt is acknowledged of papers, (i.e. Japan Application No. 2003-076462, filed 03/19/2003; Japan Application No. 2003-108357, filed 04/11/2003; and Japan Application No. 2003-139590, filed 05/11/2003) submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 6, 7, 10, 11, 14, and 23-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Nishitoba et al. (US Patent 6,774,877).

For *claims 1, 6, 7, 10, 11, 14, and 23-25*, Nishitoba et al. disclose an organic electroluminescent (EL) image display device (see e.g. Abstract; col. 1, lines 7-12; col. 3, line 49 thru col. 4, line 14; fig. 3). As illustrated by figure 3, the device comprises an organic EL element (ref. #11)(refers to instant claimed light emitting element/pixel electrode) and two transistors (ref. #8 and 9)(refers to instant claimed first and second transistors) connected to the organic EL element in a series (see e.g. col. 6, lines 17-59). The gates of the transistors (ref. #8 and 9) are connected to each others (refers to instant claimed gate electrodes) and they are p-channel MOS transistors (refers to instant claimed p-type transistor/same polarity)(see e.g. col. 6, lines 24-25 and 39-40; fig. 3). Nishitoba et al. disclose that the transistor (ref. #9)(refers to instant claimed second transistor) compensates the variations in the threshold voltage of the transistor (ref. #8)(refers to instant claimed first transistor)(see e.g. col. 6, lines 38-59). The transistor (ref. #8) operates in the saturation region, and the transistor (ref. #9) operates in the non-saturation region, i.e. linear region (see e.g. col. 6, lines 38-59). Nishitoba et al. also disclose varying the channel length of transistor (ref. #9) with respect to the channel length of the transistor (ref. #8)(see e.g. col. 6, lines 38-59; col. 7, lines 23-57; figs. 5 and 6), which imply that the size of the transistor's channel, i.e. length and width, would be a choice of experimental design and is considered within the purview of the cited prior art.

For *claims 11 and 25*, Nishitoba et al. disclose the method of driving the light emitting device wherein the step comprises controlling the current to be supplied to a light emitting

device by the first and second transistors (see e.g. col. 3, line 49 thru col. 4, line 14; col. 6, line 60 thru col. 7, line 22; figs. 3 and 4).

Therefore, the device and method of Nishitoba et al. do anticipate the instant claimed invention.

8. Claims 1, 6, 7, 10, 23, and 24 are rejected under 35 U.S.C. 102(a) as being anticipated by EP 1310997 A2, now refers to as Udagawa et al.

For **claims 1, 6, 7, 10, 23, and 24**, Udagawa et al. disclose organic light emitting device (OLED)(see e.g. Abstract; sections: [0001], [0002], and [0014]-[0056]; fig. 8). As depicted by figure 8, the device comprises organic light emitting elements (ref. #703R, 703G, and 703B)(refers to instant claimed light emitting element/pixel electrode) and two transistors (ref. #701)(refers to instant claimed first and second transistors) connected to the organic EL element in a series (see e.g. section [0135]). The gates of the transistors (ref. #701) are connected to each others (refers to instant claimed gate electrodes) and they are p-channel transistors (refers to instant claimed p-type transistor/same polarity)(see e.g. sections: [0018] and [0019]; fig. 8). Udagawa et al. disclose that the transistor has a fixed channel width of 8  $\mu\text{m}$  and various channel lengths, i.e. a range of 5  $\mu\text{m}$  to 400  $\mu\text{m}$ , (refers to instant claimed size of channel length with respect to channel width and instant claims 6 and 10)(see e.g. sections: [0018] and [0019]; figs. 3). Additionally, Udagawa et al. disclose that the threshold voltage of the transistor is dependent on its channel length (see e.g. sections: [0016], [0018], [0019], and [0021]-[0025]).

Therefore, the device of Udagawa et al. does anticipate the instant claimed invention.

### ***Double Patenting***

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Although the examiner have cited some of applications for the rejection under nonstatutory double patenting (see below), it is noted that there are an enormous amount of applications and patents, which are commonly owned with the instant application, for the examiner to identify all applications and/or patents that can be rejected under nonstatutory double patenting. And as a result, applicants are requested to assist the Office in identifying all applications and/or patents that can be rejected under nonstatutory double patenting in regard to the instant application, i.e. specifically for instant claims 1, 6, 7, 10, 11, 14, and 23-25, and especially instant claims 23-25.

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11. Claims 23 and 24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 4, 7, 8, 11, 12, 15, and 16 of copending Application No. 11/208,278 (US Patent Application Publication 2006/0044229 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant claimed device and the device of copending Application No. 11/208,278 have similar structural features.

Specifically, the claimed device of copending Application No. 11/208,278 comprises a light emitting element (refers to instant claimed light emitting element/pixel electrode), a driving transistor (refers to instant claimed first transistor), and an AC transistor (refers to instant claimed second transistor). Both the driving transistor and the AC transistor are connected to the light emitting element and to each other. Claims 7 and 8 of copending Application No. 11/208,278 recite that both the driving transistor and the AC transistor have the same conductivity type (refers to instant claimed same polarity). Claims 11 and 12 of copending Application No. 11/208,278 recite that the driving transistor has a ratio channel length to channel width of 5 or more to 1. Claims 15 and 16 of copending Application No. 11/208,278 recite that the AC transistor has channel length equal or shorter than the channel width.

That is the claimed device of the instant application is generic to the claimed device of copending Application No. 11/208,278 or in other word, claims 23 and 24 are anticipated by claims 3, 4, 7, 8, 11, 12, 15, and 16 of copending Application No. 11/208,278. Accordingly, the examined claims would be obvious over the claims of copending Application No. 11/208,278.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.



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12. Claims 23 and 24 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 6, 7, 11 and 12 of copending Application No. 11/565,116 (US Patent Application Publication 2007/0126666 A1). Although the conflicting claims are not identical, they are not patentably distinct from each other because both the instant claimed device and the device of copending Application No. 11/565,116 have similar structural features.

Specifically, the claimed device of copending Application No. 11/565,116 comprises a light emitting element (refers to instant claimed light emitting element/pixel electrode), a second transistor (refers to instant claimed first transistor), a third transistor (refers to instant claimed second transistor), and each transistors are N-channel transistor (refers to instant claimed same polarity). Both the second and third transistors are connected to the light emitting element via the pixel electrode and to each other via the pixel electrode. Claims 6 and 7 of copending Application No. 11/565,116 recite that the third transistor has channel length equal or shorter than the channel width. Claims 11 and 12 of copending Application No. 11/565,116 recite that the second transistor has a ratio channel length to channel width of 5 or more to 1.

That is the claimed device of the instant application is generic to the claimed device of copending Application No. 11/565,116 or in other word, claims 23 and 24 are anticipated by claims 1, 2, 6, 7, 11 and 12 of copending Application No. 11/565,116. Accordingly, the examined claims would be obvious over the claims of copending Application No. 11/565,116.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Conclusion***

13. No claims allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MY-CHAU T. TRAN whose telephone number is 571-272-0810. The examiner can normally be reached on Monday: 8:00-2:30; Tuesday-Thursday: 7:30-5:00; Friday: 8:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/My-Chau T. Tran/  
Patent Examiner  
Art Unit 2629  
July 22, 2007

 7/22/07  
MY-CHAU T. TRAN  
PATENT EXAMINER